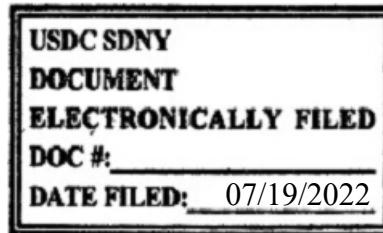


UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ROBERT REINERI,
Petitioner,
against-
INTERNATIONAL BUSINESS
MACHINES CORPORATION,
Respondent.



21-CV-8654 (LAK) (BCM)

**REPORT AND RECOMMENDATION TO
THE HON. LEWIS A. KAPLAN**

BARBARA MOSES, United States Magistrate Judge.

In my Memorandum and Order dated June 28, 2022 (Dkt. No. 35), I explained that petitioner Robert Reineri has failed to plead facts demonstrating the existence of subject matter jurisdiction, but did not recommend, at that time, that the case be dismissed. Instead, reasoning that "petitioner may well be able to 'cure the defect' in his jurisdictional pleading," Mem. and Order at 8 (quoting *Worcester Cnty. Nat'l Bank v. Cohn*, 48 F.R.D. 285, 286 (S.D.N.Y. 1969)), I directed him to file a proposed amended petition, together with a motion for leave to amend, within 14 days. Petitioner having failed to do so, I now recommend, respectfully, that this action be dismissed, without prejudice, for lack of subject matter jurisdiction.

Dated: New York, New York
July 19, 2022

A handwritten signature in blue ink, appearing to read "Barbara Moses".

BARBARA MOSES
United States Magistrate Judge

NOTICE OF PROCEDURE FOR FILING OF OBJECTIONS
TO THIS REPORT AND RECOMMENDATION

The parties shall have fourteen days from the service of this report and recommendation to file written objections pursuant to 28 U.S.C. § 636(b)(1) and Rule 72(b) of the Federal Rules of Civil Procedure. *See also* Fed. R. Civ. P. 6(a), (d). A party may respond to another party's objections within fourteen days after being served with a copy. Fed. R. Civ. P. 72(b)(2). Any such objections shall be filed with the Clerk of the Court, with courtesy copies delivered to the Hon. Lewis A. Kaplan at the Daniel Patrick Moynihan United States Courthouse, 500 Pearl Street, New York, New York 10007, and to the chambers of the undersigned Magistrate Judge. Any request for an extension of time to file objections must be directed to Judge Kaplan. **Failure to file timely objections will result in a waiver of such objections and will preclude appellate review.** *See Thomas v. Arn*, 474 U.S. 140, 155 (1985); *Frydman v. Experian Info. Sols., Inc.*, 743 Fed. App'x 486, 487 (2d Cir. 2018); *Wagner & Wagner, LLP v. Atkinson, Haskins, Nellis, Brittingham, Gladd & Carwile, P.C.*, 596 F.3d 84, 92 (2d Cir. 2010).